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**FILED**  
**DISTRICT COURT OF GUAM**

SEP 09 2008

**JEANNE G. QUINATA**  
**Clerk of Court**

10 IN THE DISTRICT COURT OF GUAM

11 UNITED STATES OF AMERICA, )

Criminal Case No. 08-00004

12 )  
13 Plaintiff, )

14 vs. )

15 FRANCISCO KAWAMOTO, ET AL )

16 )  
17 Defendants. )  
18

APPLICATION FOR CERTIFICATION  
OF EXCESS COMPENSATION  
PURSUANT TO 18 USC §3006A(d)(3)  
and §3006A(e)(3)

19 COMES NOW, Stephanie G. Flores, court-appointed counsel for Defendant  
20 Francisco S.N. Kawamoto ("Defendant") in the above-matter, and hereby applies for  
21 certification of excess compensation to counsel pursuant to 18 U.S.C. § 3006A (d)(3) for the  
22 representation of Defendant, for services of an unusual character or duration pursuant to  
23 18 U.S.C. § 3006A (e)(3).  
24

25 **FACTS**

26 The Court may take judicial notice of the following facts: On January 25, 2008,  
27 Stephanie G. Flores was appointed to defend Francisco S.N. Kawamoto pursuant to the  
28

**ORIGINAL**

1 Criminal Justice Act of 1967, 18 U.S.C. 3006A since the Defendant was found to be  
2 financially unable to obtain adequate representation.

3  
4 On January 23, 2008, an indictment was filed charging Defendant with Criminal  
5 Conspiracy in violation of 18 U.S.C. §§2 and 371 and Fraud Concerning Identification  
6 Documents in violation of 18 U.S.C. §§2; 1028(a)(1); 1028(b)(1)(A)(ii); 1028(c)(1);  
7 1028(c)(3)(A). Kawamoto was one (1) of seven (7) Defendants charged in said Criminal  
8 Case No. 08-00004  
9

10 In representing Defendant, legal counsel examined and analyzed over 3000 pages  
11 of discovery, interviewed numerous Government witnesses and defense witnesses,  
12 drafted and assisted co-counsel, (six (6) legal defense attorneys), with preparing and  
13 arguing pre-trial and trial motions.  
14

15  
16 Before the trial, a plea offer was presented to Defendant, however, after careful  
17 review and discussion with client, Defendant refused said plea offer and thus, legal  
18 counsel needed to prepare for trial.  
19

20 Prior to the commencement of trial, legal counsel along with six (6) other co-  
21 counsel prepared and argued numerous motions before the court for approximately one  
22 and a half (1 ½) weeks. Subsequently, legal counsel prepared and appeared before the  
23 court for trial which lasted for approximately four weeks.  
24

25 After the conclusion of trial, the jury returned not guilty verdicts for all criminal  
26 charges against Defendant.  
27  
28

1  
2  
3 **DISCUSSION**

4 Since being appointed to this case, counsel has reviewed documents which  
5 numbered in the thousands, interviewed numerous witnesses, research, prepared and  
6 argued numerous motions on behalf of Defendant and has always made herself available  
7 for Defendant's questions as well as counseling on various matters involving his case.  
8

9 In the defense of his case, the seriousness of the charges compounded with the  
10 number of witnesses and details to investigate made this case difficult and unusual in  
11 character. A number of court appointed investigators were deemed necessary to  
12 investigate the facts supporting Defendant's story and legal counsel's defense theory.  
13 Witnesses were difficult to locate and in some instances, not found. Additionally, many  
14 of the witnesses were Korean Nationals which required translators for purposes of  
15 interview creating additional burden and additional time to interview said witnesses.  
16 Because of the length of time this case took to prepare, the number of people interviewed  
17 and consulted, the thousands of documents reviewed and used in said trial, the  
18 seriousness of the criminal charges and discussions with the Assistant U.S. Attorney, and  
19 complexity of the matter, appointed counsel hereby requests this court to certify the  
20 excess compensation warranted in this matter to provide fair compensation to counsel.  
21  
22  
23  
24

25 **NO NOTICE TO THE UNITED STATES**

26 As stated earlier, Defendant's case involved working with Defendant along with  
27 co-defendant's counsels in preparation of his defense, review and examination of this file,  
28

1 review of various legal theories for exclusion of evidence, and trial theory and strategy,  
2 consultation with the Assistant U.S. Attorney, and consultation and numerous meetings  
3 with co-counsels: Richard Arens, Esq., Lelani Lujan, Esq., Mark Smith, Esq., Louie Yanza,  
4 Esq., and Cynthia Ecube, Esq.  
5

6 The defense of Defendant involved and was similar to those legal theories of his  
7 Co-Defendants requiring all parties to meet on a constant basis, discuss legal strategies  
8 and confer on the direction to take with respect to the legal theories of the case as well as  
9 examination of witnesses and presentation of evidence during pretrial hearings and trial.  
10

11 Since being appointed to represent Defendant in this matter, counsel has expended  
12 over three hundred thirty-three and seven-tenths (333.7) hours to date, amounting to legal  
13 fees in the amount of Thirty Three Thousand Three Hundred Seventy and 00/100 Dollars  
14 (\$33,370.00). Excess compensation should be granted because this case falls within the  
15 parameters of extended and complex representation.  
16  
17

#### 18 FAIR COMPENSATION TO COUNSEL

19 According to the Guidelines for the Administration of the Criminal Justice Act, the  
20 Court must determine a fair reasonable fee using the following criteria: responsibilities  
21 involves measured by the magnitude and importance of the case; manner in which duties  
22 were performed, knowledge, skill efficiency, professionalism and judgment required of  
23 and used by counsel; nature of counsel's practice and injury thereto; any extraordinary  
24 pressure of time or other factors under which services rendered; and any other  
25 circumstances relevant and material to determination of a fair and reasonable fee. United  
26  
27  
28

1 States v. Diaz, 802 F.Supp. 304, 307 (C.D. Cal 1992)

2 In United States v. Cook, supra, the Court found that an excess award was necessary  
3 to provide the appointed attorney with fair compensation. Its findings were based on the  
4 facts of the individual case, considering the time spent, the result achieved and other  
5 factors, which in the court's judgment lends meaning to the test.  
6

7  
8 The Sixth amendment guarantees that all criminal defendants are to be represented  
9 by effective legal counsel- counsel who are reasonably diligent, conscientious and  
10 competent. United States v. Bailey, supra. This and other constitutional guarantees  
11 represent the cornerstone of the American criminal justice system and ensure that the  
12 process is fundamentally fair.  
13

14 CONCLUSION

15  
16 Accordingly, the undersigned respectfully requests this Court to grant full  
17 compensation requested in the final billings of counsel submitted to the Court for  
18 payment.  
19

20 Respectfully submitted this 9th day of September, 2008.

21 THE LAW OFFICE OF STEPHANIE G. FLORES

22  
23 By: 

24 Stephanie G. Flores, Esq.  
25 Attorney for Francisco Kawamoto  
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